

## **Coalition on Chronic Pain Management 2019 Report to the Legislature**

### **Membership.**

Dr. Coben, Chair  
Kevin Yingling  
Timothy Deer  
Travis Tarr  
Richard Vaglianti  
Nicholas Thymius  
Michael LeMasters  
Nicholas Marchesani  
Richard Bowman

### **Creation of the Coalition.**

The Coalition for Responsible Chronic Pain Management was created by act of the Legislature during the 2017 Regular Session of the West Virginia Legislature with the passage of Senate Bill 339.

### **Overview of the Legislation.**

The bill created the Coalition for Responsible Chronic Pain Management- an alliance of specialists that review the process by which West Virginia regulates pain clinics and pain management pharmaceuticals. The Coalition shall review the state's chronic pain management regulations and attempt to strike a balance between regulation, patient needs and clinical judgement of physicians. This review would also entail a review of our statutory framework. The Coalition may develop workgroups of clinical specialists with needed expertise. All recommendations are to be reported back to the Joint Committee on Health. The Coalition will expire on December 31, 2020

### **Overview of the Duties of the Coalition**

West Virginia Code §16-52-1 et. seq. Provides that the Coalition Responsible Chronic Pain Management shall be tasked with the following duties:

- (1) Undertake a review of chronic pain regulations contained in §16-5H-1 et seq. and any legislative rules promulgated pursuant to that article to ascertain if a less cumbersome, but equally or more effective manner exists to provide necessary regulation of prescriber practices characterized as pain clinics.
- (2) Review the statutory provisions of the Controlled Substance Monitoring Database provided for in article nine, chapter sixty-a of this code. The purpose of this review is to ascertain if there is a more effective manner for prescribers to access the database, which would provide sufficient regulation over the prescription of chronic pain medication while still allowing access to patients with established chronic pain conditions.
- (3) Provide guidance to the Legislature on potential statutory solutions relative to regulation of chronic pain medications,
- (4) Establish workgroups and clinical advisory committees as the Coalition deems necessary to address pertinent issues related to chronic pain management and to provide consistency in the development of further regulation.
- (5) Consult with entities and persons with a particular expertise as the Coalition deems necessary in the fulfillment of their duties. This can include public and private sector partnerships.
- (6) Offer any additional guidance to the Legislature which the Coalition sees is within its scope which would further enhance the provider patient relationship in the effective treatment and management of chronic pain.
- (7) Make recommendations regarding regulations of wholesalers of controlled substances or terminal distributors of dangerous drugs.
- (8) Provide insight into whether “take back” programs or limitations on prescriber furnished controlled substances would be effective in this state.

## **COALITION MEETINGS**

**Friday, June 14, 2019**

The Coalition met at the West Virginia State Capitol. Krista Capehart, Staff Pharmacist, WV Board of Pharmacy, and Clinical Associate Professor WVU School of Pharmacy presented information to the Coalition concerning the Center for Disease Control’s guidelines for prescribing opioids for chronic pain.

The CDC guidelines were released in March 2016 and combined with the SB 273 has led to chronic pain patients experiencing an increased difficulty obtaining medical treatment for their chronic pain. The Coalition and its staff have heard from citizens who have described being refused necessary medication or those dismissed by their treating physicians. Some physicians are telling their patients that changes in the law are the reason they are tapering them to a preset dosage of opioids or off of opioids altogether.

Counsel for the Coalition has reviewed the statute and regulations and has found nothing in the current legal or regulatory environment that justifies such actions. There is great concern within the Coalition that these actions are occurring.

Additionally, the CDC released a statement on April 24, 2019 stating some policies and practices attributed to the Guideline are inconsistent with its recommendations

### **Friday, August 16, 2019**

The second meeting of the Coalition was again held in Charleston, West Virginia at the State Capitol. Christina Mullins, Commissioner for the Bureau for Behavioral Health presented information on State Opioid Response Grants.

The Substance Abuse and Mental Health Services Administration (SAMHSA) is accepting applications for the fiscal year (FY) 2018 State Opioid Response Grants (Short Title: SOR). The program aims to address the opioid crisis by increasing access to medication-assisted treatment using the three FDA-approved medications for the treatment of opioid use disorder, reducing unmet treatment need, and reducing opioid overdose related deaths through the provision of prevention, treatment and recovery activities for opioid use disorder (OUD) (including prescription opioids, heroin and illicit fentanyl and fentanyl analogs).

The program supplements activities pertaining to opioids currently undertaken by the state agency and will support a comprehensive response to the opioid epidemic. The results of the assessments will identify gaps and resources from which to build upon existing substance use prevention and treatment activities as well as community-based recovery support services. Grantees will be required to describe how they will expand access to treatment and recovery support services. Grantees will also be required to describe how they will advance substance misuse prevention in coordination with other federal efforts. Grantees must use funding to supplement and not supplant existing opioid prevention, treatment, and recovery activities in their state. Grantees are required to describe how they will improve retention in care, using a chronic care model or other innovative model that has been shown to improve retention in care.

According to press material, \$28,027,511 was awarded through the Substance Abuse and Mental Health Services Administration (SAMHSA) as part of its State Opioid Response Grants.

### **Friday, October 25, 2019**

The third meeting of the Coalition occurred in Charleston, West Virginia at the State Capitol. Brian Gallagher, Chairman of the Governor's Advisory Council on Substance Use Disorder, facilitated questions, concerns, and general discussion of the current state of chronic pain management.

Discussion of SB273 emphasized that although an educational component was added for providers, overall prescribing is now greatly limited for people who need pain treatment because the pendulum has swung too far. Doctors Nicholas Marchesani and Rick Vaglianti joined via conference call and expressed great concern with regards to the current aggressive prosecutorial environment surrounding the prescribing of pain medication. Doctors feel that they are being heavily monitored and are therefore apprehensive about getting involved. Due to this constant fear of prosecution, there are not enough pain providers.

It was recommended by the Coalition that a chronic pain specialist should be added to the Governor's Advisory Council on Substance Use Disorder. In addition, the Coalition would like to have future conversations that include insurers to discuss what they cover in terms of alternate treatment. It was recommended that research be conducted with regards to other states and best practices through specialty societies.

### **Friday, November 15, 2019**

The fourth meeting of the Coalition occurred in Charleston, West Virginia at the State Capitol. The Coalition discussed possible recommendations to the legislature.

The Coalition **FINDS and RECOMMENDS the following to the West Virginia Legislature:**

- Require prescribing practitioners to watch, one time, the online video created by Brian Gallagher, Chairman, Governor's Council on Substance Use, discussing opioid prescribing statute. This should count in lieu of the 3 hour opioid diversion course.
- The Governor's Advisory Council on Substance Use Disorder should add a chronic pain specialist.
- Legislators should partner with health care practitioners to advance policies that protect the patient-practitioner relationship and expand access to timely, evidence-based health care to treat pain.
- SB 273 has inadvertently and inappropriately interfered with the patient-practitioner relationship, unnecessarily regulating the evidence-based practice of medicine and, in some cases, even dissuade physicians who deliver safe, legal, and necessary medical care to patients suffering from pain. In addition, in some cases, pharmacists have been dissuaded to

dispense safe, legal and necessary medication to patients as part of proper medication therapy management. The coalition will continue to review in an effort to provide specific recommended changes.

- Engage law enforcement and the legal community to discuss the practical effects of SB 273 upon patient's and the prescribing practitioners in a non-threatening or incriminating way.
- Continue to review other states for best practices regarding chronic pain prescribing

Dr. Jeffrey Coben  
Chair